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1913-14.

FILE NO. 11 of 1913-14.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

PROCEEDINGS OF THE GENERAL AND REVENUE SECRETARIAT.

JUDICIAL AND LEGISLATIVE SECTION.

"A" Collection. **Serial Nos. 1 and 2.**

A Regulation further to amend the Mysore Land Revenue Code, 1888.

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1	D. O. No. 2005, dated 4th August 1914, from the Dewan, to the Hon'ble the Resident in Mysore. Forwards a copy of the Bill further to amend the Mysore Land Revenue Code 1888, with a statement of objects and reasons and states that the Bill will be placed before the Legislative Council in due Course.		8
2	D. O. No. 5622, dated 14th August 1914, from the First Assistant to the Hon'ble the Resident in Mysore. States that there is no *prima facie* objection to the Bill being placed before the Legislative Council.		8

1913-14.

GENERAL AND REVENUE SECRETARIAT.

(Legislative)

NOTES.

FILE No. 11 OF 1913-14

Amendment of a Regulation further to amend the Mysore Land Revenue Code, 1888.

"Extract from the Notes of L. R. 456 of 1911-12."

* * *

Submitted to His Highness.

2. The Revenue Commissioner has brought to notice that there is an inconsistency between the Form prescribed in Appendix B of the Land Revenue Rules for Proclamation and Notification of sale of immovable property declared forfeited for default in payment of land revenue thereon and Section 179 of the Land Revenue Code.

3. Section 179 provides that if the person whose bid is accepted at the sale *fails* to deposit 25 per cent of the purchase money as required by the section, the property should be put up for sale while in the proclamation of sale a condition is inserted that the purchaser will in addition be liable to make good the deficiency, if any, resulting from the resale. This condition applies under Section 182 only to cases in which the purchaser having paid the deposit fails to pay the balance of the purchase money within 15 days.

4. The First Councillor points out that under the Civil Procedure Code, no distinction is made between purchasers who make default in paying 25 per cent of the purchase money and those who having paid the deposit make default in payment of the balance and that both are equally liable to be proceeded against for the difference in price between the original sale and the subsequent sale and that the same principle should be followed in the case of revenue sales, . He is of opinion that though Section 182 may be interpreted so as to apply to both classes of defaulters, it is desirable to clear the doubt by a suitable amendment of Section 182. He also suggests that when default is made in payment only of the balance of the purchase money, the forfeiture of the deposit should be made optional as in the case of Civil Court sales.

5. The proposals of the First Councillor involve the amendments of certain sections of the Land Revenue Code, and if His Highness approves, I shall take steps in the Legislative Department to introduce the necessary amendments. There are also some other proposals for amendments of other sections of the Code pending and the opportunity will be taken to consolidate them and introduce them in a single Bill.

6. The proposal to amend Sections 181 and 182 of the Land Revenue Code may be approved.

M. VISVESVARAYA.
26-5-1913.

"Order"
"*Approved*"
K. R. W.
3-6-1913.

Submitted. Three files, R. Mis. 84-12, L. R. 456 of 1911-12 and L. S. 44-12, have been received for further action in this Branch sanctioning the proposal to the amendments of Sections 110 (*b*), 181 and 182 and containing the reply of Government on Subject No. 167 of the R. A. proceedings of 1912 *re* the compulsory introduction

of Survey and Settlement into Inam villages ordering the introduction of a Bill into the Legislative Council. A draft Bill with statement of objects and reasons is herewith put up.

S. V. S.
N. N.
1-9-1913.

2. Please put up typed copies of the Bill and Statement of Objects and Reasons as revised by me.

S. P. RAJAGOPALACHARI.
2-9-1913.

3. To the Typing Section for preparing two typed copies of the draft Bill and Statement of Objects and Reasons in half margin.

S. V. S.
5-9-1913.

4. Two typed copies submitted.

S. V. S.
N. N.
8-9-13.

5. The wording of the proposed amendment of Section 236 requires consideration and approval.

S. P. R.
8-9-1913.

Deputy Secretary—

6. Drafts submitted. As regards Section 182 of the Land Revenue Code, I crave permission to make a few remarks.

7. Both the Sections 179 and 181 deal with defaulting purchasers, the word "default" occurring in each of them. And Section 182 uses the expression " Such defaulting purchaser". This circumstance and the independent position of Section 182 do not seem to leave room for any reasonable doubt as to its application to both the cases contemplated in Sections 179 and 181.

8. If, however, amendment is necessary, the alternative of adding the expression "under Section 179 or Section 181 preceeding" after "made" in line 2 of Section 182 may be taken into consideration if deemed fit.

D. M. NARASINGA RAO.
10-9-1913.

9. 110 S. Is the expression "resumed by Government for the arrears due thereon" used anywhere in the Code now ? If not ,under what authority is such resumption made? If 'resumption' is the equivalent of forfeiture, the same phraseology may be employed. I am doubtful whether the amendment is valid at all and perhaps that accounts for such a provision not being in the Bombay Code.

10. S. 182. The questions raised by the Deputy Secretary have already been considered in the other file. I am inclined to the same opinion still. That S. 182 does not relate to 179 is doubtful and the Statement of Objects and Reasons requires amendment.

11. S. 236. The last amendment draft seems all right.

H. V. N.
12-9-1913.
K. R. S.
13-9-1913.

Bring up.

S. P. R.
13-9-1913.

Submitted.

12. The expression " resumed by Government for the arrears due thereon " is not found anywhere in the Land Revenue Code. But under Section 54 of the Code, on forfeiture, the Deputy Commissioner may also otherwise dispose of the occupancy or alienated holding under rules or orders made in this behalf under Section 233, and under Section 159, the Deputy Commissioner may declare the occupancy or alienated holding in respect of which an arrear of land revenue is due to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of Sections 54 and 55, and credit the proceeds, if any, to the defaulter's accounts.

13. Under Rule 99 (*b*) of the Land Revenue Rules, in the case of land forfeited under Section 159, the Deputy Commissioner may direct that the land be either resumed and dealt with as an unoccupied land or disposed of in such manner as he inay deem proper.

14. The word forfeiture, cannot be substituted for resumption as every case of forfeiture need not be followed by resumption. It is only when the land, if sold, does not fetch a fair price that the land may be resumed by Government.

15. As regards amendment of Section 182, the Statement of Objects and Reasons has been revised as personally directed.

S. V. S.
N. N.
10-11-1913.

16. The expression 'resumed by Government' does not occur in the Code, but the procedure is authorised by rule 99 (*b*) of the Land Revenue Rules. 'Resumption' does not appear to be the equivalent of 'forfeiture'. 'Forfeiture' implies only the cessation of the occupant's rights in the land; it does not indicate in what way the land is finally disposed of. A forfeited land may be sold, or immediately taken possession of and disposed of (Section 55) or resumed to Government (under Rule 99 (*b*)). Thus 'resumption' is one way of disposal of a 'forfeited' land and is thus an after-effect of it. If the words 'forfeited to Government' are introduced in the proposed amendment of Section 110 (*b*), they may include lands sold also and hence it seems preferable to retain the expression 'resumed to Government'.

17. The Statement of Objects and Reasons has been suitably amended with regard to Section 182.

18. Submitted for orders.

S. P. R.
13-11-1913.
D. M. N.
15-11-1913.
S. P. R.

19. I do not think that we shall be justified in introducing a new term not used in the Code in this connection. The difficulty also shows that we should not amend the law as proposed or make a more thorough-going amendment, by throwing the liability to pay kandaya of recognised shares jointly on all holders. Perhaps it is also better to abolish 'recognised shares' and register them all as separate numbers.

20. The matter may perhaps be again considered at a meeting.

H. V. N.
3-12-1913.

21. I agree. The matter may be discussed at a Council meeting once more.

M. V.
17-2-1914.

Council Section—

22. Circulate to the Members and note for a meeting.

K. R. S.
20-2-1914.

23. Seen.

K. N. R. W.
26-2-1914.

24. M. K.
3-3-1914.

Council Section—

25. Note for meeting.

K. R. S.
4-3-1914.

Opinion of the Council.

26. The Council are of opinion that the question of amending Section 110 (*b*) as proposed in the draft Bill may be dropped for the present and in other respects the draft Bill may be introduced into the Legislative Council.

M. VISVESVARAYA,
Dewan of Mysore.

" Extract "

D. M. NARASINGA RAO,
Officiating Secy. to Govt.

D. S. N. III.

D. M. N.
8-5.

27. A draft Submission Note is also put up.

8-5. D. M. NARASINGA RAO,
21-5.

Submitted to His Highness.

28. The question of amending Sections 110 (*b*), 181, 182 and 236 of the Land Revenue Code, 1888, was considered by the Council.

29. The proposed amendments are as follows :—

(*i*) In Section 110, clause (*b*), after the words " Section 71 " the words " or is resumed by Government for the arrears due thereon " shall be added.

(*ii*) In Section 181 for the words " shall be forfeited to Government " the words " shall, at the discretion of the Deputy Commissioner, be liable to be forfeited to Government " shall be substituted.

(*iii*) For the words " sale which is eventually made " occurring in Section 182 the words " re-sale which is held by reason of the purchaser's default " shall be substituted.

(iv) After the words " Kayamgutta village " occurring in the third para of Section 236 the words " or where there are more holders than one of such village, on such application by so many of them as hold in the aggregate not less than three-fourths of the shares in such village " shall be added.

30. The Council are of opinion that the question of amending Section 110 (*b*) as proposed in the draft Bill may be dropped as the proposed amendment goes beyond the law in the Bombay Presidency and imposes a certain amount of hardship on the holders, and that in other respects the draft Bill may be introduced into Legislative Council.

31. The last of these amendments, *viz.*, amendment of Section 236 of the Code, has been urged by the representative Assembly. Under the existing law, Survey and Settlement cannot be introduced into alienated villages if any one of the share holders, however small his interest, objects thereto. This works as a great hardship on the raivats. Power is therefore proposed to be taken by this amendment to introduce Survey and Settlement in alienated holdings when an application is received therefor from holders enjoying not less than three-fourths of the share of the property.

32. The amendments of Sections 181 and 182 have already been approved by His Highness.

33. I now solicit His Highness's approval to place the Bill before the Legislative Council.

M. VISVESVARAYA,
16-6-14.

Subject—

A Bill to amend Sections 181, 182 and 236 of the Land Revenue Code of 1888.

Order.

34. K. R. W.
23-6-14.

35. Secretary.

M. V.
24-6-14.
D. M.
25-6.

36. Draft Bill and Statement of Objects and Reasons to be revised excluding 110 (*b*) and draft D. O. to Residency.

S. P. R.
25-6.

Submitted—

37. This file has not been seen by the Members of the Council after its return with H. H's orders. May the file be submitted to them now and the revised draft Bill with draft D. O. to the Residency put up after its return.

S. V. S.
28-7-14.

38. Alright.

S. P. R.
29-6.
D. M. N.
1-7.

39. H. V. N.
30-6-14

40. M. K.
2-7.
D. M. N.
2-7.

41. K. N. R. W.
3-7-14.
K. S. R.
2-7.

42. Submitted with the draft Bill and Statement of Objects and Reasons revised, the necessary corrections being made in pencil and also a draft D. O. to the Residency. If approved, they will be got typed.

S. V. S.
N. N.
10-7-14.

43. Yes please.

C. O.
11-7.

44. Submitted with typed draft D. O. to the Residency as also typed copies of the Bill and the Statement of objects and reasons.

N. N.
17-7-14.

45. For Approval.

N. M.
17-7.

46. Secretary, First Member and Dewan.

D. M. NARASINGA RAO,
18–7.

47. Draft approved by First Member.

M. S. S.
D. M. N.
20-7.

48. Draft approved by the Dewan.

D. M. N.
4-8.

D. O. Letter No. 2005, *dated 4th August* 1914, *to the Hon'ble the Resident.*

Forwards a copy of the Bill to amend the Mysore Land Revenue Code, 1888.

No. 5622, *dated* 14*th August* 1914, *from the First Assistant Resident.*

Intimates that the Resident sees no *prima facie* objection to the Bill being laid before the Legislative Council.

49. Submitted. The bill will have to be taken up at the next meeting of the Legislative Council. In the meanwhile the name of the member who has to be in charge of the Bill has to be determined.

S. V. S.
25-8-14.
N. N.
25-8-14.

50. May the Bill be noted against the name of the Secretary (Mr. D. M. Narasinga Rao, in the agenda at the next meeting of the Legislative Council ?

G. S.
26-8.

51. Has it not been the practice hithereto that only the *ex-officio* members had charge of all such Government measures ? If there are precedents the other way I have no objection.

H. V. N.
28-8-14.
D. M. N.
29-8.

52. Please put up all the precedents on the subject.

G. S.
29-8.

Submitted—

53. The following Bills were taken charge of by the officers named against each.

(1) The Bill to amend the Stamp Regulation, II of 1900.

MR. A. RANGASWAMI IYENGAR,
Revenue Commissioner.

(2) The Bill to amend the Code of Civil Procedure (afterwards withdrawn).

MR. S. NARAYANA RAO,
Government Advocate.

(3) Bill to provide a law relating to Treasure trove in Mysore.

MR A. RANGASWAMI IYENGAR.

(4) Bill to recognize the representative character of the Administrator General of Madras.

MR. K. S. CHANDRASEKHARA AIYAR,
Secretary, G. R. S.

(5) Bill further to amend the Mysore Land Revenue Code, 1888.

MR. K. S. CHANDRASEKHARA AIYAR.

(6) Bill to consolidate and amend the law relating to Guardians and Wards in Mysore.

MR. K. S. CHANDRASEKHARA AIYAR.

54. Moreover in para 2 of the submission note to His Highness in 16thJune 1908 recommending the appointment of Mr. K. S. Chandrasekhara Aiyar, the then Secretary to Government, General and Revenue Departments, as an additional member of the Council, the Dewan has stated as follows :—

" It is very desirable that the General and Revenue Secretary should be a member of the Legislative Council, so that Bills relating to matters connected with the Departments in the Dewan's direct charge, may, as a rule, be introduced and taken charge of

by the Secretary. Bills relating to departments in the charge of the two Councillors being introduced by the Councillors."

S. V. S.
N. V.
2-9-14.

55. Submitted with reference to page 49.

G. SRINIVASA IYENGAR.
2-9.

56. If the Dewan wishes that the Secretary should take charge of the bill as representing the Revenue Department in his direct charges, I have no objection. Please submit for his orders.

H. V. N.
4-9-14.
D. M. N.
7-9.

Dewan.
26-10-14.

G. SRINIVASA IYENGAR.
7-9.

If he has no objection, the First Member of Council may take charge of the Bill.

M. V.
29-10-14.
D. M. N.
30-10.
G. S.
30-10.

This was ordered to be consolidated with another Bill for amending the Land Revenue Code (Notification No. 168—L. C., dated 5th February 1915.) It was done accordingly and considered together and disposed of (*vide* Legis. 31-14).

S. V. S.
15-11-16.

A Regulation further to amendment the Mysore Land Revenue Code, 1888.

D. O. Letter No. 2005 *-En. two, dated the* 4*th August* 1914, *from the Dewan, to the Hon'ble the Resident in Mysore.*

Serial No. 1. I enclose herein copy of a Bill further to amend the Mysore Land Revenue Code, 1888. The Statement of Objects and Reasons accompanying the Bill explains the necessity for the measure. The Bill will be placed before the Legislative Council in due course.

M. VISVESVARAYA,
4-8-14.
D. M. N.
18-7.
H. V. N.
18-7-14.

D. O. Letter No. 5622, *from the First Assistant to the Hon'ble the Resident in Mysore, to the Dewan.*

Serial No. 2. I am desired to acknowledge the receipt of your D. O. letter No. 2005, dated the 4th August 1914, forwarding a Bill further to amend the Mysore Land Revenue Code, 1888, and, in reply, to state that the Resident sees no *prima facie* objection to the Bill being laid before the Legislative Council.

P. B. WARBERTON.

A Bill further to amend the Mysore Land Revenue Code, 1888.

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888, His Highness the Maharaja is pleased to enact as follows :—

Amendment of Section 181.

1. In Section 181 for the words "shall be forfeited to Government" the words "shall at the discretion of the Deputy Commissioner be liable to be forfeited to Government" shall be substituted.

Amendment of Section 182.

2. For the words "sale which is eventually made" occurring in Section 182 the words "re-sale which is held by reason of the purchaser's default" shall be substituted.

Amendment of Section 236.

3. After the words "Kayamgutta village" occurring in the third para of Section 236 the words "or where there are more holders than one of such village, on such application by so many of them as hold in the aggregate not less than three-fourths of the shares in such village" shall be added.

Statement of Objects and Reasons.

It is proposed to amend the provisions relating to the sale of immoveable property contained in Sections 181 and 182 of the Code. Under former section in default of the payment by the purchaser within the prescribed period of the full amount of purchase money, there is no alternative, but to forfeit the deposit to Government, after defraying the expenses of the sale. In the Civil Procedure Code, on the other hand, such forfeiture of the deposit is optional. The compulsory forfeiture works as a hardship and it is proposed to confer a discretion upon the Deputy Commissioner to forfeit the deposit or not according to the circumstances in each case. Again Section 182 of the Code does not specifically indicate whether the liability to make good the deficiency of price in a resale applies both to the case of default of the deposit required in Section 179 and of payment within the prescribed period of the full amount of purchase money under Section 181. Under the Civil procedure Code, no distinction is made between purchasers who make default in paying 25 per cent of the purchase money and those who having paid the deposit make default in payment of the balance. It is considered desirable that the same principle should be clearly laid down in the case of revenue sales also the provisions concerning which would thus be brought into line with those regarding the Civil Court sales contained in the Civil Procedure Code.

A Regulation further to amendment the Mysore Land Revenue Code, 1888.

2. The next amendment relates to the question of the introduction of Survey and Settlement in alienated villages. Para 3 of Section 236 empowers Government to authorise the introduction of Survey and Settlement into any alienated village on an application made by the holder of the village. Where the village is held jointly by more than one holder, the consent of all is necessary before steps can be taken to introduce Survey and Settlement in it. Repeated representations have been made in the Representative Assembly to Government that the Law should be amended so as to enable Government to introduce Survey and Settlement into alienated villages when a large majority of the joint-holders of such villages apply for the same. It is therefore proposed to amend Section 236 to take power to do so on the application of so many of the joint-holders as hold in the aggregate not less than three-fouths of the shares in the village.

Notification No. 247—*L. C., dated* 17*th April* 1915.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bills further to amend the Mysore Land Revenue Code, 1888, is published for general information.

By Order,
G. SRINIVASA IYER,
Secretary, Mysore Legislative Council.

Report of the Select Committee on the Bills further to amend the Mysore Land Revenue Code, 1888.

We, the Members of the Select Committee appointed to consider the Bills further to amend the Mysore Land Revenue Code, 1888, have the honour to state that we have made only a slight addition to clause 1 of the Bill regarding the amendment of Section 181 of the Code by adding the words "either wholly or in part" at the end of the words "forfeited to Government." We have no other change to suggest in the Bills and we recommend that the consolidated Bills with the slight addition referred to above may be passed. As the Bill has not undergone material alterations, we consider it unnecessary to republish the Bill.

A. RANGASWAMY IYENGAR (Chairman).
H. V. NANJUNDAYYA.
K. S. DORASWAMI IYER.
K. R. SRINIVASA IYENGAR.
B. NARASINGA RAO.

Notification No. 114—*L. C., dated Bangalore, the* 22*nd December* 1914.

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill to amend the Mysore Land Revenue Code, 1888, is published for general information together with a Statement of Objects and Reasons.

By Order,
G. SRINIVASA IYER,
Secretary, Mysore Legislative Council.

A Bill further to amend the Mysore Land Revenue Code, 1888.

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888: His Highness the Maharaja is pleased to enact as follows:—

1. In Section 181 for the words "shall be forfeited to Government" the words "shall at the discretion of the Deputy Commissioner be liable to be forfeited to Government" shall be substituted.

Amendment of Section 181.

A Regulation to further amendment of the Mysore Land Revenue Code, 1888.

2. For the words "sale which is eventually made" occurring in Section 182, the words "resale which is held by reason of the purchaser's default" shall be substituted.

Amendment of Section 182.

3. After the words "Kayamgutta village" occurring in the third para of Section 236 the words "or where there are more holders than one of such village, on such application by so many of them as hold in the aggregate not less than three-fourths of the shares in such village" shall be added.

Amendment of Section 236.

Statement of Objects and Reasons.

It is proposed to amend the provisions relating to the sale of immoveable property contained in Sections 181 and 182 of the Code. Under the former section in default of payment by the purchaser within the prescribed period of the full amount of purchase money, there is no alternative but to forfeit the deposit to Government, after defraying the expenses of the sale. In the Civil Procedure Code, on the other hand, such forfeiture of the deposit is optional. The compulsory forfeiture works as a hardship and it is proposed to confer a discretion upor the Deputy Commissioner to forfeit the deposit or not according to the circumstances of each case. Again, Section 182 of the Code does not specifically indicate whether the liability to make good the deficiency of price in a re-sale applies both to the case of default of the deposit required in Section 179 and of payment within the prescribed period of the full amount of purchase money under Section 181. Under the Civil Procedure Code, no distinction is made between purchasers who make default in paying 25 per cent of the purchase money and 'those who having paid the deposit make the default in payment of the balance. It is considered desirable that the same principle should be clearly laid down in the case of revenue sales also, the provisions concerning which would thus be brought into line with those regarding the Civil Court sales contained in the Civil Procedure Code.

The next amendment relates to the question of the introduction of Survey and Settlement in alienated villages. Para 3 of the Section 236 empowers Government to authorise the introduction of Survey and Settlement into any alienated village on an application made by the holder of the village. Where the village is held jointly by more than one holder, the consent of all is necessary before steps can be taken to introduce Survey and Settlement in it. Repeated representations have been made in the Representative Assembly to Government that the law should be amended so as to enable Government to introduce Survey and Settlement into alienated villages, when a large majority of the joint-holders of such villages apply for the same. It is therefore proposed to amend Section 236 to take power to do so on the application of so many of the joint-holders as hold in the aggregate not less than three-fourths of the shares in the village.

REGULATION NO. II OF 1916.

A REGULATION FURTHER TO AMEND THE MYSORE LAND REVENUE CODE, 1888.

(*Received the assent of His Highness the Maharaja on the 25th day of February* 1916.)

Whereas it is expedient further to amend the Mysore Land Revenue Code 1888, His Highness the Maharaja is pleased to enact as follows :—

1. In Section 181 for the words "shall be forfeited to Government" the words "shall at the discretion of the Deputy Commissioner be liable to be forfeited to Government either wholly or in part" shall be substituted.

Amendment of Section 181.

2. For the words "sale which is eventually made" occurring in Section 182, the words "re-sale which is held by reason of the purchaser's default" shall be substituted.

Amendment of Section 182.

A Regulation further to amendment of the Mysore Land Revenue Code, 1888.

3. In para 2 of Section 185 of the Code, after the words " after recording his reasons in writing " the words " and on such conditions as he may deem proper concerning the payment of interest on the money deposited or other compensation shall be inserted.

Amendment of Section 185 of the Code.

4. After the words " Kayamgutta village " occurring in the third para of Section 236 the words " or where there are more holders than one of such village, on such application by so many of them as hold in the aggregate not less than three-fourths of the shares in such village " shall be added.

Amend of Section 236.

M. VISVESVARAYA,
Dewan.

WD 2201—GPB—25—16-2-23.